

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN M. NOLAN, JR., : CIVIL ACTION

894 Marker Drive :

West Chester, Pennsylvania 19382-5507 :

:

Plaintiff, :

:

v. : NO. 02- CV- 2805

:

READING BLUE MOUNTAIN & :

**NORTHERN
RAILROAD
COMPANY,
:**

a Pennsylvania Corporation, :

One Railroad Boulevard :

Port Clinton, Pennsylvania 19549 :

:

Defendant. : TRIAL BY JURY DEMANDED

AND/OR REQUEST FOR ENTRY OF DEFAULT AND**REQUEST FOR A DETERMINATION ON THE AMOUNT OF DAMAGES****PURSUANT TO RULE 55 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Pursuant to Rule 55 of the Federal Rules of Civil Procedure, Plaintiff John M. Nolan, Jr. hereby renews his Request for Entry of Default Judgment against Defendant Reading Blue Mountain & Northern Railroad Company or in the alternative, Requests Entry of Default of Defendant. Further, Plaintiff Requests that the Court order references, schedule a hearing, or provide other means to determine the amount of Plaintiff's damages. In support of these Requests, Plaintiff alleges the following:

1. On May 10, 2002, Plaintiff filed a **Verified Complaint** with the Court. (Tab

A).

1. The case was assigned to the Honorable Petrese B. Tucker. On May 13, 2002,

Judge Tucker's Courtroom Deputy Clerk Alisa Ross requested that Counsel for Plaintiff notify the Court when Defendant was served. (Tab B).

2. Defendant Reading Blue Mountain & Northern Railroad Company was properly

served with a Summons and the **Verified Complaint** on August 16, 2002. As previously instructed, Counsel for Plaintiff notified the Court on August 26, 2002, that service was made by sending Ms. Ross a letter and attaching a copy of the Return of Service. (Tab C).

3. The time for Defendant to file an Answer to the Complaint has expired.

4. On September 6, 2002, Plaintiff filed a **Request for Entry of Default**

Judgment Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. (Tab D). As of the date of that filing, Defendant had not filed an Answer, Motion to Dismiss, Motion for Summary Judgment, or other defense. Nor had the Defendant otherwise appeared in the action.

5. As of the time of this filing, Defendant still has not filed an Answer, Motion to

Dismiss, Motion for Summary Judgment, or other defense. Nor has the Defendant otherwise appeared in the action.

6. Accordingly, entry of Judgment by Default against Defendant and in favor

of Plaintiff is proper. Alternatively, entry of Defendant's Default is proper.

7. Plaintiff's claim against Defendant is not for a sum certain. In order to enable the Court to carry a Default Judgment into effect, it is necessary to determine the amount of Plaintiff's damages.

WHEREFORE, plaintiff respectfully requests that this Honorable Court grant the following relief:

1. Enter a Default Judgment against Defendant or in the alternative, enter Defendant's Default. (Tab E).

2. Schedule a hearing, order references pursuant to Rule 55(b)(2), or provide other means to determine the amount of Plaintiff's damages.

3. Require such other and further relief as is equitable, just, and proper.

_____**JOHN M. LaROSA**

Pa. S.C. No. 85339

Two East Seventh Street, Suite 302

Wilmington, Delaware 19801-3707

(302) 888-1290 (telephone)

(302) 655-9329 (fax)

Attorney for Plaintiff

Dated: September ___, 2002

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ORDER

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AND NOW, this _____ day of _____, 2002, upon careful consideration of

the Verified Complaint and Plaintiff's Renewed Request For Entry of Default Judgment and/or Request for Entry of Default and Request for a Determination on the Amount of Damages Pursuant to Rule 55 of the Federal Rules of Civil Procedure, and the defendant having not filed an Answer or other defense, it is **ORDERED** that Plaintiff's Request for Default Judgment is **GRANTED**, and it is further **ORDERED** that:

1. Plaintiff's Request for a Determination on the Amount of Damages is

GRANTED.

2. A hearing to determine the amount of Plaintiff's damages shall be held on

_____, 2002, at _____.

PETRESE B. TUCKER, J.

CERTIFICATE OF SERVICE

I, John M. LaRosa, being a member of the Bar of this Court, do hereby certify that on September ____, 2002, I caused two (2) copies of the foregoing **PLAINTIFF'S RENEWED REQUEST FOR ENTRY OF DEFAULT JUDGMENT AND/OR REQUEST FOR ENTRY OF DEFAULT AND REQUEST FOR A DETERMINATION ON THE AMOUNT OF DAMAGES PURSUANT TO RULE 55 OF THE FEDERAL RULES OF CIVIL PROCEDURE** to be sent via first class U.S. mail, postage prepaid to the following:

Andrew M. Muller, Jr.

Chief Executive Officer and Chairman

Reading Blue Mountain & Northern Railroad Company

One Railroad Boulevard

Port Clinton, Pennsylvania 19549

JOHN M. LaROSA

cc: John M. Nolan, Jr.

Attorney Files/John's Files/Client Files/Nolan/Pleadings/Renewed Request for Default Judgment